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Sale Hearing Date: June 30, 2009

Sale Hearing Time: 9:45 AM

Sale Objection Date: June 19, 2009

Contract Assumption/Assignment

Objection Date: June 15, 2009

Attorneys for Oracle USA, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

GENERAL MOTORS CORPORATION, *et al.*,

Debtors.

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Chapter 11

Case No. 09-50026 (REG)

(Jointly Administered)

ORACLE USA, INC.'S LIMITED OBJECTION TO (A) NOTICE OF (I) DEBTORS' INTENT TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS, UNEXPIRED LEASES OF PERSONAL PROPERTY, AND UNEXPIRED LEASES OF NON RESIDENTIAL REAL PROPERTY and (II) CURE COSTS RELATED THERETO ("CURE NOTICE") and (B) DEBTORS MOTION PURSUANT TO 11 U.S.C. §§ 105, 363(b), (f), (k), and (m), and 365 AND FED. R. BANKR. P. 2002, 6004, AND 6006, TO (I) APPROVE (A) THE SALE PURSUANT TO THE MASTER SALE AND PURCHASE AGREEMENT WITH VEHICLE ACQUISITION HOLDINGS LLC, A U.S. TREASURY-SPONSORED PURCHASER, FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (B) THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (C) OTHER RELIEF ("SALE MOTION")

Oracle USA, Inc., successor in interest to Oracle Corporation and to Siebel Systems, Inc. ("Oracle"), a creditor and contract counter-party in the above-captioned jointly administered Chapter 11 cases, submits its Limited Objection to the Cure Notice and Sale Motion ("**Limited Objection**") filed by General Motors Corporation, *et. al.*, the above-captioned debtors and debtors-in-possession (the "**Debtors**") and in support of its Limited Objection respectfully states as follows:

I. INTRODUCTION

1. In connection with the pending Sale Motion and the Master Sale and Purchase Agreement among the Debtors and Vehicle Acquisition Holdings, LLC, (“VAH”), the Debtors filed the Cure Notice identifying, among other things, (a) the contracts to be assumed and assigned through the sale transaction and (b) the corresponding cure amounts that the Debtors assert are due to contract counter-parties.

2. With respect to the Cure Notice, contracts with Oracle as a counter-party have been identified. However, the descriptions provided under “Contract Type” are vague. No specific agreements or agreement dates are identified.

3. Moreover, the Debtors believe the cure amount to be \$0.00. However, Oracle's records reflect that they are currently owed not less than \$46,401.19. In addition to that amount, the Debtors will owe Oracle an additional \$83,997.22 which will come due on June 19, 2009. Although this amount has yet to come due as of the date of this Limited Objection, given the timing of the hearing on the Sale Motion, as well as the potential closing date, this additional payment and possibly others, may be required in connection with any assumption and/or assignment involving Oracle. Attached hereto as Exhibit “A” is a true and correct copy of the invoices, which Oracle reserves all right to amend.

4. Furthermore, in connection with the Sale Motion, the Debtors propose that the Sale Order include a blanket, early judicial determination that any anti-assignment provision in any contract designated an “Assumable Executory Contracts” is invalid. This request is framed by Debtors as follows:

“To assist in the assumption, assignment and sale of the Assumable Executory Contracts, the Sale Order should provide that certain anti-assignment provisions shall not restrict, limit, or prohibit the assumption, assignment, and sale of the Assumable Executory Contracts and are deemed and found to be

unenforceable anti-assignment provisions within the meaning of section 365(f) of the Bankruptcy Code.” (Sale Motion, ¶78).

5. Oracle objects to this proposed finding as Oracle executory contracts involve the licensing of non-exclusive, patented software that are non-assignable in the absence of Oracle's consent, precluding the Debtors from unilateral nullification of the contract language.

6. It appears that VAH, to all intents and purposes, will be the purchaser of substantially all of the Debtors' assets. However, Oracle reserves its rights to evaluate the creditworthiness of the ultimate purchaser, including VAH. In addition, Oracle will also condition its consent on the ultimate purchaser's willingness to execute an Oracle Assignment Agreement identifying all of the executory contracts to be assigned and related obligations.

7. Oracle requests that the Court condition the assignment of Oracle software licenses, as set forth in the Cure Notice on (a) payment of the appropriate cure and (b) the execution of an Oracle Assignment Agreement.

II. ARGUMENT

A. The Debtors May Not Assume And Assign Any Oracle Agreement, As It Pertains To A License Of Intellectual Property And Oracle Does Not Consent To The Proposed Assignment At This Time

8. Section 365(c)(1) of the Bankruptcy Code provides, in relevant part:

The trustee may not assume or assign any executory contract ... of the debtor ... if (1)(A) applicable law excuses a party, other than the debtor, to such contract or lease from accepting performance from or rendering performance to an entity other than the debtor ..., whether or not such contract or lease prohibits or restricts assignment of rights or delegation of duties; and (B) such party does not consent to such assumption or assignment.

9. Federal law makes non-exclusive patent licenses non-assignable absent consent of the licensor. *In re Catapult Entertainment, Inc.*, 165 F.3d 747 (9th Cir. 1999), *cert. dismissed*, 528 U.S. 924 (1999). *See, In re Patient Educ. Media*, 210 B.R. 237, 243 (Bankr. S.D.N.Y.

1997); In re Adelphia Communications Corp., et al., 359 B.R. 65 (Bankr. S.D.N.Y. 2007); In re Access Beyond Technologies, Inc., 237 B.R. 32, 48, 49 (Bankr. D. Del 1999) (citing In re West Elec., Inc.) 852 F. 2d 79 (3d Cir. 1988); In re Golden Books Family Entertainment, Inc., 269 B.R. 311, 316 (Bankr. D. Del. 2001).

10. Oracle license agreements involve the licensing of non-exclusive, patented software. Oracle will consent to the assignment once its conditions are satisfied.

B. Oracle Reserves Its Rights To Object To The Adequate Assurance Of The Ultimate Purchaser

11. Section 365(b) of the Bankruptcy Code sets forth specific prerequisites that must be met before a debtor can assume and assign an executory contract, including (a) curing (or providing adequate assurance of a prompt cure of) any defaults under the subject contracts, and (b) providing adequate assurance of future performance under the contract. Absent the foregoing, an executory contract may not be assumed, or assumed and assigned. Oracle reserves its right to object based on adequate assurance requirements.

C The Motion Should Be Denied With Respect to the Oracle Agreements Until All Appropriate Amounts Are Paid Prior to Pursuit of Any Assignment

12. Oracle's records reflect that Oracle is currently owed not less than \$46,401.19. In addition to that amount, the Debtors will owe Oracle an additional \$83,997.22 which will come due on June 19, 2009. Although this payment has yet to come due, given the timing of the hearing on the Sale Motion as well as the potential closing date, this payment will fall into the applicable cure period. As such, Oracle will require payment of this additional amount.

13. Absent payment of the appropriate amounts due to Oracle, the Oracle agreements may not be assumed or assumed and assigned.

III. CONCLUSION

14. Pursuant to Section 365(c) and applicable case law, Oracle is within its rights to provide its consent to the assignment of its executory contracts only upon the satisfaction of its reasonable requests. Oracle believes that its Limited Objection will be resolved consensually. However, to preserve its rights, at this time, Oracle files this Limited Objection.

Dated: June 15, 2009
New York, New York

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Attorneys for Oracle USA, Inc.

EXHIBIT A

ORACLE®

Enabling the Information Age™

INVOICE

Federal Tax ID: 84-1332677

INVOICE NUMBER	41010094
INVOICE DATE	24-Apr-2009
YOUR P.O. NUMBER	1648-206
PAYMENT TERMS	30 NET
DUE DATE	24-May-2009

BILL TO :

General Motors Corporation
Accounts Payable
200 RENISSANCE CTR
DETROIT, MI 48265-0001
UNITED STATES

PAYMENT INSTRUCTIONS:

REFERENCE	41010094	ON YOUR REMITTANCE
MAIL CHECKS TO:	Oracle USA, Inc. PO BOX 71028 CHICAGO IL 60694-1028	
WIRE TRANSFERS TO:	WELLS FARGO BANK ABA 121000248 ACCT 4522-020841	

SHIP TO :

General Motors Corporation
30007 Van Dyke
Bldg Num 170
Warren, MI 48090
UNITED STATES

FOR BILLING QUESTIONS, CALL COLLECTIONS CENTER (888) 803-7414

ORACLE SALESPERSON	ORACLE ORDER NUMBER	CUSTOMER CONTACT	END USER
Sonner, Ms Jeanette	2680626	Accounts Payable	

ITEM NO.	DESCRIPTION	QTY/ NO. OF USERS	TAX	EXTENDED AMOUNT
1	Software Update License & Support - Management Pack for SOA - Processor Perpetual: 28-FEB-2009 : 27-FEB-2010	10	N	4,250.00
2	Software Update License & Support - Service Registry - Processor Perpetual: 28-FEB-2009 : 27-FEB-2010	10	N	17,000.00
3	Software Update License & Support - SOA Suite for Oracle Middleware - Processor Perpetual: 28-FEB-2009 : 27-FEB-2010	10	N	21,250.00

SPECIAL INSTRUCTIONS:	SUBTOTAL	TAX	SHIPPING/ HANDLING	TOTAL(USD)
	42,500.00	0.00	0.00	42,500.00
	Less payments			0.00
	Credits/Adjustments			0.00
	Outstanding Balance as of 08-Jun-2009			42,500.00

ORACLE®

Enabling the Information Age™

INVOICE

Federal Tax ID: 84-1332677

INVOICE NUMBER	I365619
INVOICE DATE	11-Dec-2008
YOUR P.O. NUMBER	GMP0030478
PAYMENT TERMS	BR_30 NET
DUE DATE	10-Jan-2009

BILL TO :
General Motors
PCC Central 184B1
M/C 483-520-197
PONTIAC, MI 48341
UNITED STATES

PAYMENT INSTRUCTIONS:

REFERENCE	I365619	ON YOUR REMITTANCE
MAIL CHECKS TO:	Oracle USA, Inc. PO BOX 71028 CHICAGO IL 60694-1028	
WIRE TRANSFERS TO:	WELLS FARGO BANK ABA 121000248 ACCT 4522-020841	

SHIP TO :

FOR BILLING QUESTIONS, CALL COLLECTIONS CENTER (888) 803-7414

ORACLE SALESPERSON	ORACLE ORDER NUMBER	CUSTOMER CONTACT	END USER
No Sales Credit	I365619		

ITEM NO.	DESCRIPTION	QTY/ NO. OF USERS	TAX	EXTENDED AMOUNT
1	No Description Provided from PRI	1	N	3,901.19
2	Project Planner Professional- Maintenance Renewal From: 01-D	1	N	34,596.59
3	Project Manager- Maintenance Renewal From: 01-DEC-08 to 30-N	1	N	9,889.50
4	Contract Manager v11 concurrent- Maintenance Renewal From: 0	1	N	6,844.58
5	Contract Manager v11 concurrent- Maintenance Renewal From: 0	1	N	13,689.15

SPECIAL INSTRUCTIONS:	SUBTOTAL	TAX	SHIPPING/ HANDLING	TOTAL(USD)
	68,921.01	0.00	0.00	68,921.01
	Less payments			65,019.82
	Credits/Adjustments			0.00
	Outstanding Balance as of 08-Jun-2009			3,901.19

ORACLE*

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INVOICE

Federal Tax ID: 84-1332677

INVOICE NUMBER	I365619
INVOICE DATE	11-Dec-2008
YOUR P.O. NUMBER	GMP0030478
PAYMENT TERMS	BR 30 NET
DUE DATE	10-Jan-2009

SPECIAL INSTRUCTIONS:	SUBTOTAL	TAX	SHIPPING/ HANDLING	TOTAL(USD)
	68,921.01	0.00	0.00	68,921.01
	Less payments			65,019.82
	Credits/Adjustments			0.00
	Outstanding Balance as of 08-Jun-2009			3,901.19

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INVOICE

Federal Tax ID: 84-1332677

INVOICE NUMBER	2370167
INVOICE DATE	20-May-2009
YOUR P.O. NUMBER	4500531318NMK
PAYMENT TERMS	NET 30 DAYS
DUE DATE	19-Jun-2009

BILL TO :

General Motors Corporation
Michael Schinnerer /Accounts Payable
Adam Opel GmbH, Kreditoren-Buchhaltung
BKS Scan Center IPC 01-01
Russelsheim, 65423
GERMANY

PAYMENT INSTRUCTIONS:

REFERENCE	2370167	ON YOUR REMITTANCE
MAIL CHECKS TO:	Oracle USA, Inc. PO BOX 44471 SAN FRANCISCO CA 94144-4471	
WIRE TRANSFERS TO:	WELLS FARGO BANK ABA 121000248 ACCT 4522-020841	

SHIP TO :

General Motors Corporation
Mr. Michael Schinnerer
Adam Opel GmbH, Kreditoren-Buchhaltung
BKS Scan Center IPC 01-01
Russelsheim, 65423
GERMANY

FOR BILLING QUESTIONS, CALL COLLECTIONS CENTER (888) 803-7414

ORACLE SALESPERSON	ORACLE ORDER NUMBER	CUSTOMER CONTACT	END USER
Sirkot, Mr Daniel J (Dan)	8399361	Michael Schinnerer /Accounts Payable	General Motors Corporation

ITEM NO.	DESCRIPTION	QTY/ NO. OF USERS	TAX	EXTENDED AMOUNT
1	G-Log G3 Base License - Nonstandard User	1	N	83,997.22

SPECIAL INSTRUCTIONS:	SUBTOTAL	TAX	SHIPPING/ HANDLING	TOTAL(USD)
	83,997.22	0.00	0.00	83,997.22
	Less payments			0.00
	Credits/Adjustments			0.00
	Outstanding Balance as of 08-Jun-2009			83,997.22